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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,674	03/31/2004	David Harouche	13219.00001	3567
67883	7590	05/23/2007		
PRYOR CASHMAN, LLP 410 PARK AVENUE NEW YORK, NY 10022			EXAMINER WOO, ISAAC M	
			ART UNIT 2166	PAPER NUMBER
			MAIL DATE 05/23/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/812,674	<b>Applicant(s)</b> HAROUCHE, DAVID	
	<b>Examiner</b> Isaac M. Woo	<b>Art Unit</b> 2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-2 and 4-30 is/are pending in the application.
- 4a) Of the above claim(s) 24-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, and 4-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to Applicant's Amendment, filed on May 17, 2007 have been considered but are deemed moot in view of new ground of rejections below.
2. Claims 1, 4, 13 and 15 are amended. Claims 24-30 are withdrawn. Claim 3 is canceled. Claims 1-2 and 4-23 are presented for this office action.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, " said test information" in line 10. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2 and 4-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Maddux (U.S. Pub. NO. 2004/0267607).

With respect to claims 1 and 13, Maddux teaches at least one local computer (i.e., 105 test taker terminal in fig. 5); a training program resident with the local computer (page 2, section 0016), the training program including an interactive test having questions (i.e., S1109 in fig. 11, page 7, section 0076); a first human-computer interface connected to the local computer enabling an employee to enter answers to the questions in the local computer (i.e., S1109 in fig. 11, page 7, section 0076); a remote computer server at a central location communicatable with the at least one local computer (fig. 2, page 1, section 0009); and a second interface enabling a manager to access the test information on the central server (fig. 10a, page 3, sections 0045-0055) wherein when an employee interacts with the training program, the local computer transmits only the employee's identifier (S1101 in fig. 11, page 7, section 0076) and test information to the central server thereby allowing dynamic managerial oversight (page 7, section 0076, page 3, sections 0045-0055).

With respect to claim 2, Maddux teaches software resident on the central server for sorting the test information (617b, fig. 5, page 3, section 0043).

With respect to claim 4, Maddux teaches second interface includes an Internet connection allowing remote access to the central server (page 1, sections 0008-0009).

With respect to claim 5, Maddux teaches dynamically created website, wherein when a manager accesses the website, the test information is visually updated and presented to the manager (S1107 in fig. 11, page 7, section 0076).

With respect to claim 6, Maddux teaches test information by at least one of the following categories: by store, by employee, by question, by training program, by employee type, by score, by test start time, by test end time, by test duration, by question, by answer, by employee question response time, by district, by region, and company-wide (page 3, sections 0045-0055).

With respect to claim 7, Maddux teaches first interface includes at least one of a keyboard, a mouse, a touch-screen, voice recognition software, a hand-held device, a wireless hand-held device, and an interactive voice response system using a telephone (fig. 6, page 3, section 0045-0055).

With respect to claims 8 and 18, Maddux teaches local computer being owned by a first company and the remote server being owned by a second information company servicing the first company (fig. 6, page 3, section 0045-0055).

With respect to claims 9 and 19, Maddux teaches at least one local computer are each provided in selective communication with the server (page 3, section 0045-0055).

With respect to claim 10, Maddux teaches employee's answers are tallied by the sorting software, results from the tallying are transmitted from the server to the local computer and are accessible to the employee, the results including at least one of the correct answers, the employee's running score, and the employee's final score (S48 in fig. 4, page 1, section 0012).

With respect to claim 11, Maddux teaches a CD-ROM playable on the local computer; a DVD playable on the local computer, a videotape playable in close proximity to the local computer; an audio cassette playable in close proximity to the local computer; and at least one software file on the local computer (page 3, section 0045-0055).

With respect to claim 12, Maddux teaches employee identifier, test version identification, test start time, test completion time, test duration, time spent on each question, and the answers entered by the employee (page 3, section 0045-0055).

With respect to claim 14, Maddux teaches enabling a manager to access the test information remotely (page 3, section 0045-0055).

With respect to claim 15, Maddux teaches providing a second human-computer interface in communication with the server (page 3, section 0045-0055).

With respect to claim 16, Maddux teaches dynamically creating a web page with updated test information when the manager accesses the test information (S1107 in fig. 11, page 7, section 0076).

With respect to claim 17, Maddux teaches sorting testing information by store, by employee, by question, by training program, by employee type, by score, by test start time, by test end time, by test duration, by question, by answer, by district, by region, and company-wide (page 3, section 0045-0055).

With respect to claim 20, Maddux teaches answers tallied on the server; ii) a test score; iii) test progress; and iv) test authorization (page 3, section 0045-0055).

With respect to claim 21, Maddux teaches the first company pays a subscription fee to the second information company for each of its employees participating in the training program (page 3, sections 0036-0037).

With respect to claim 22, Maddux teaches detecting employee cheating on a training program test by recording the employees' response time to each question (page 5, section 0056).

With respect to claim 23, Maddux teaches comparing a given response time by one employee to a given question to other response times by other employees to the same question (page 5, section 0056).



***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

**Contact Information**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac M. Woo whose telephone number is (571) 272-4043. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Isaac Woo  
May 21, 2007